

**City of Excelsior  
Assessment Policy  
September, 2010  
(Amended October, 2015)**

**SECTION 1. GENERAL POLICY STATEMENT**

**Purpose.** The purpose of this assessment policy is to establish a fair and equitable manner of distributing the cost of public improvements. This assessment policy is designed to serve only as a general guide for the City Council in allocating benefits to properties for the purpose of defraying the cost of installing public improvements. The procedures used by the City of Excelsior (“City”) for levying special assessments are those specified by Minnesota Statutes Chapter 429, which provides that all or a part of the cost of improvement may be assessed against benefitting properties.

- A. **Criteria for Assessing.** Three basic criteria must be satisfied before a particular parcel can be assessed. The criteria is as follows:
- 1) The land must have received a special benefit from the improvement.
  - 2) The amount of the assessment must not exceed the special benefit (except in cases where the project is 100% petitioned by the property owners.)
  - 3) The assessment must be uniform in relation to the same class of property within the assessment area.

**SECTION 2. IMPROVEMENTS ELIGIBLE FOR SPECIAL ASSESSMENT**

- A. The following public improvements, as authorized by Minnesota Statute 429.021 are eligible for special assessments in the City of Excelsior:
- 1) Street, alley, curb and gutter.
  - 2) Sidewalks and trails.
  - 3) Storm sewer systems.
  - 4) Sanitary sewer systems.
  - 5) Watermain systems.
  - 6) Street lights.

- 7) Construction, reconstruction and maintenance of retaining walls.
- B. The City of Excelsior has adopted an ordinance establishing the authority to charge properties within the Downtown Business District a portion of the annual costs for maintaining the municipal parking lots.
- C. Pursuant to state law, the City of Excelsior also retains authority to recover, through special assessment, certain special charges and maintenance costs. These include, but are not limited to the following:
- 1) Snow and ice removal.
  - 2) Abatement of nuisances including but not limited to weed elimination and the removal of trash and rubbish.
  - 3) Tree trimming and removal of diseased or unsound trees.
  - 4) Removal of obstructions from sight triangles at intersections.
  - 5) Sump pump provision or rectification.
  - 6) Delinquent utility billings.

### **SECTION 3. INITIATION OF PUBLIC IMPROVEMENT PROJECTS**

- A. Initiation of public improvement projects can be undertaken in any of the following ways.
- 1) Public improvement projects may be initiated by petition of at least 35% of the affected property owners. Alley improvements require 100% of the affected property owners signing a petition.
  - 2) Public improvements also may be initiated by the City Council when, in its judgment, such action is required. A resolution ordering any City Council initiated improvements shall be adopted as outlined in Minnesota State Statutes.
  - 3) A Developer of a proposed subdivision may petition the City Council to construct the improvements and assess them according to this assessment policy and per the terms of the developer's agreement. The Developer must control 100% of the affected property and have the legal right to agree to assessment terms.

**SECTION 4. POLICY DEFINITIONS**

- A. Adjacent or Abutting Property: A property directly adjacent to public improvements.
- B. Access: Properties shall be considered to have access to public street improvements when they may enter onto the improvement from their own private driveway, private road, common driveway, shared easement, or public street. Properties shall be considered to have access to underground utility improvements when they directly abut and are within 150 feet of the utility.
- C. Adjusted Area: An area of a benefited property that has been modified by an adjustment factor to more accurately represent the true benefit that property receives from an improvement in comparison to other properties in the assessment area. The adjustment will be based on the improvement design parameters that are applicable to that parcel, as approved by the City Council. Design parameters that may be used to determine the adjustment factor include, but are not limited to: trip generation; storm water runoff coefficients; water or sanitary sewer use; needed fire flow; and zoning or future land use.
- D. Adjusted Front Footage: The number of feet actually utilized in calculating an assessment for a particular property. This may differ from the actual front footage of the property.
- E. Assessed Cost: Those costs of public improvements that have been determined to benefit specific properties. The assessed cost will be equal to the project cost minus the City cost.
- F. Benefit: The increase in property value as a result of a public improvement such as, but not limited to, a street, sidewalk, trail, curb and gutter, water main, sanitary sewer, storm sewer, park, or street landscaping.
- G. Condominium. Individual ownership of a unit in a multi-unit structure (similar to an apartment building). A special relationship exists whereby the individual owns the actual air space within the physical confines of the unit but not the barrier walls themselves.
- H. Commercial: The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
- I. Deferment: A process of postponing the collection of the cost of public improvements and funding them as a system cost with the intention of collecting at a later date.

- J. Drainage District. An area defined by the City Engineer which shall form the physical boundaries where benefit exists within a storm sewer project. Property to be included within a district shall be all land which contributes to storm water runoff as well as land serving as a collector basin for storing such water. Natural geographical features normally form these boundaries.
- K. Driveway Approach: That area which lies between the existing pavement and the right-of-way line; curb cut to curb cut.
- L. Duplex: A dwelling structure on a single lot, having two units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
- M. Dwelling: A building or portion thereof, designated exclusively for residential occupancy, including one-family, two-family, and multiple-family dwellings, but not including hotels, motels, boarding houses, bed and breakfast, mobile homes, or trailers.
- N. Front Footage: The distance measured along the right-of-way line that directly abuts an improvement.
- O. Institutional: The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.
- P. Lot Definitions:
1. Corner Lot: A lot located at a street intersection having both front and side-lot footage.
  2. Double Frontage Lot: A lot with access to two separate non-intersecting or intersecting streets but not a corner lot.
  3. Special Case Lot Residential: A lot which may not directly abut the improvement shall be assessed on a per unit basis if the improvement can be accessed.
  4. Special Case Lot Commercial: A lot which accesses the improvement but may have little or no real property fronting the improvement shall be assessed in a fair and equitable manner consistent with surrounding properties fronting the improvement. Adjusted frontage shall be considered.

- Q. Multi-Family. A structure of more than two units, the primary purpose of which is to provide owned, rental or leased living space to the general public. Building characteristics include common hallways for access purposes and a common parking lot.
- R. Private Development. A Public Improvement undertaken by the City under the authority granted in M.S.429.021 for the purpose of installation of improvements such as street, curb & gutter, sewer, water and related appurtenances; and at the request of a third party. Upon authorization and upon execution of a Subdivision Agreement, the City will proceed with construction and administration of the project.
- S. Public Improvement: Improvements as allowed by State Statute that provide a special benefit to properties, including but not limited to streets, sidewalks, trails, curb, gutter, sanitary sewer systems, storm sewer systems, water treatment and distribution systems.
- T. Special Assessment: A legal process whereby the benefited property is charged for all or a portion of the cost of public improvements.
- U. Standards for Surface Improvements: Standards for surface improvements have been established in the City's Engineering Standards.
- V. Street: All public ways designed as means of access to the adjoining properties.
- W. Street Treatment Definitions:
1. Minor Maintenance – For the purposes of this policy, minor maintenance will consist of pothole repair, patching, crack sealing, sealcoating, skin patch overlays, and general maintenance that the Public Works Department completes. Minor maintenance activities are not assessed.
  2. Mill and Overlay – Milling and overlaying consists of grinding off the upper layer of asphalt (typically 1"-3") and replacing it with a new layer of asphalt. This is generally done on roadways that have a fair amount of cracking and other surface distress, usually at about 60% of the street's life cycle. This is considered a structural improvement that will renew the street surface and extend its useful life.
  3. Reclamation – Pavement reclamation is a rehabilitation process that pulverizes old bituminous pavement and mixes it with the underlying aggregate, which adds additional stability to the existing subgrade and aggregate base. After reclamation and grading, new bituminous pavement will be placed. The reclamation process may include new or replacement, or spot repairs of, concrete curb and gutter.

4. Reconstruct – Reconstructing a roadway consists of completely removing the existing road and underlying gravel and sand base material, bituminous curbing (or a majority of the existing concrete curb and gutter) and constructing a new road section. This may also include correcting any poor base material beneath the section, or updating the road to meet design standards such as width and drainage. This is often done in conjunction with utility repairs/replacement. This is generally done on roadways that exhibit signs of major distress, such as rutting, cracking, and potholes.
  
- X. Storm Drainage: Stormwater runoff. A storm drainage assessment is applied to all properties receiving improvement if the property has not previously been assessed for a storm water drainage improvement.
  
- Y. Townhouse. Single family attached units in structures housing three or more contiguous dwelling units, sharing a common wall, each having separate individual front and rear entrances; the structure is that of a row-type house as distinguished from multiple-dwelling apartment buildings or condominiums.

#### **SECTION 5. METHODS OF ASSESSMENT**

- A. Residential Method: All single-dwelling residential properties will be assessed on a per unit basis. This method is used for single, duplex, and townhouse residential dwelling units. Each dwelling unit shall be considered one unit. Fifteen (15) percent of the project costs, excluding costs for roadway width for medians, turn lanes and pavement in excess of residential standard 7-ton design, will be assessed.
  1. Corner Lot: A lot situated at the junction of and abutting on two or more intersecting streets shall be assessed on a per unit basis. Assessment shall be based on driveway access point. In cases where property has no driveway access, assessment shall be based on street address.
  2. Double Frontage Lot: A lot with access to two separate non-intersecting or intersecting streets but not a corner lot shall be assessed based on driveway access. In cases where the property has no driveway access, assessment shall be based on street address.
  3. Special Case Lot Residential: A lot which may not directly abut the improvement shall be assessed on a per unit basis if the improvement can be accessed.
  4. Standard Lot: An improved or unimproved lot which directly abuts the improvement shall be assessed on a per unit basis.

- B. Commercial and Multi-Family Method: Churches with an educational facility, school properties, and commercial properties will be assessed on a front footage basis. Multi-family dwellings will be assessed on an adjusted area method of assessment, and in the instance of multiple owned units divided by the number of owned occupiable units. Thirty (30) percent of the project costs will be assessed.
1. Corner Lot: A lot situated at the junction of and abutting on two or more intersecting streets shall be assessed for all sides. However no assessment would occur for an unimproved side.
  2. Double Frontage Lot: A lot with access to two separate non-intersecting or intersecting streets but not a corner lot shall be assessed for any street improvement that it has direct access to.
  3. Special Case Lot Commercial: A lot which accesses the improvement but may have little or no real property fronting the improvement shall be assessed in a fair and equitable manner consistent with surrounding properties fronting the improvement. Adjusted frontage shall be considered.
  4. Standard Lot: An improved or unimproved lot which directly abuts the improvement shall be assessed for any street improvement that it has direct access to.
- C. Institutional Method: Each institutional property, i.e. government, nursing home, or church without educational facility, shall be assessed on an adjusted area method of assessment. Twenty (20) percent of the project costs will be assessed.
1. Corner Lot: A lot situated at the junction of and abutting on two or more intersecting streets shall be assessed for all sides. However no assessment would occur for an unimproved side.
  2. Double Frontage Lot: A lot with access to two separate non-intersecting or intersecting streets but not a corner lot shall be assessed for any street improvement that it has direct access to.
  3. Special Case Lot Institutional: A lot which accesses the improvement but may have little or no real property fronting the improvement shall be assessed in a fair and equitable manner consistent with surrounding properties fronting the improvement.

4. Standard Lot: An improved or unimproved lot which directly abuts the improvement shall be assessed for any street improvement it has direct access to.

## **SECTION 6. ASSESSMENT COMPUTATIONS**

### A. Street, Alley, Curb and Gutter Improvements

#### New Construction

All new streets will be assessed 100% to the benefited properties.

#### Reconstruction, Reclamation, or Mill and Overlay

Reconstruction, reclamation, or mill and overlay assessments will apply for those parcels with an existing constructed street and/or alley.

#### Minor Maintenance, Crack Fill, and Sealcoating

Roadway minor maintenance, crack fill, and sealcoating are not assessed for streets or alleys.

#### Alleys

Alley new construction, reconstruction, reclamation, overlay, or mill and overlay will be assessed for properties based on driveway access point.

#### Curb and Gutter Only

Concrete curb and gutter only, as new construction or reconstruction, will be assessed for those parcels with an existing constructed street and/or alley. Fifteen (15) percent of costs will be assessed for residential properties.

### B. Sidewalks and Trails

#### New Construction

Construction of new sidewalks in areas that did not previously have sidewalk will be assessed to the adjacent properties, on an adjusted front foot basis. Sixty (60) percent of the project costs will be assessed to residential properties, and 100 percent of the project costs will be assessed to commercial, multi-family, and institutional properties. Construction of new bituminous trails shall not be assessed.

#### Reconstruction/Replacement

Replacement of existing concrete sidewalks shall be included in the street reconstruction assessment in those areas where street reconstruction is taking place. Sidewalk only, as new construction or reconstruction, will be assessed for those parcels adjacent to the sidewalk on an adjusted front foot basis. Sixty (60) percent of the project costs will be

assessed to residential properties and multi-family properties of six (6) units or less, and 100 percent of the project costs will be assessed to commercial, multi-family (more than six (6) units), and institutional properties. Reconstruction of bituminous trails shall not be assessed.

C. Storm Sewer Improvements

Construction of new public storm sewers and replacement of existing public storm sewer facilities within public right of way or permanent easement shall be funded from the Storm Sewer Utility Fund and not assessed. Construction of new storm sewer or reconstruction of private storm sewer benefitting a drainage district not previously served by City storm sewer nor previously assessed for a storm water drainage improvement will be assessed to the benefitting properties 100% on an area basis. This shall include, but are not limited to property acquisition, construction and maintenance of storm water ponding areas and storm water conveyance systems.

D. Sanitary Sewer Improvements

New Construction

Construction of new sanitary sewer mains, lift stations and other facilities needed to serve properties not currently served by City sewer will be assessed to the benefitting properties 100% on an area basis. Assessable items shall include but are not limited to conveyance systems, manholes and lift stations. Assessments shall be based on a standard 8 inch sewer main. Costs for trunk oversizing will not be assessed, but rather funded by the Sanitary Sewer Utility Fund.

Reconstruction

Reconstruction of sanitary sewer facilities shall be funded from the Sanitary Sewer Utility Fund, and not assessed. Costs for sanitary sewer service replacement to the property line or cleanout as a part of sanitary sewer facility reconstruction will not be assessed, but rather funded by the Sanitary Sewer Utility Fund.

Sanitary Sewer Services

In the City of Excelsior, sanitary sewer service lines are defined as being owned by the property owner from the main to the home, including the wye at the main. Repairs made to service lines will be assessed 100% to the benefitting property owner. Property owners may petition the City to assess the costs of sanitary sewer service repairs.

D. Watermain Improvements

New Construction

Construction of new watermains to serve properties not currently served by City water, or

to provide additional requested capacity will be assessed to the benefitting properties 100% on an area basis. Assessments shall be based on the installation of an appropriately sized ductile iron watermain. Costs for trunk oversizing will not be assessed but rather funded by the Water Utility Fund.

#### Reconstruction

Reconstruction of watermains shall be funded from the Water Utility fund, and not assessed. Costs for water service line replacement to the property line including the corporation stop and curb box shut off replacement as a part of watermain reconstruction will not be assessed, but rather funded by the Water Utility Fund.

#### Water Services

In the City of Excelsior, water service lines are defined as being owned by the property owner from the main to the home, including the corporation stop and curb box shut off. Repairs made to service lines will be assessed 100% to the benefitting property owner. Property owners may petition the City to assess the costs of water service repairs.

#### Treatment Plants, Wells and Booster Stations

Construction and reconstruction of treatment plants, wells, pumps and booster stations will be funded from the Water Utility Fund, and not assessed.

#### E. Street Lights

##### Street Lights

Street lights or street lighting improvements may be petitioned by residents. Street lighting improvements consist of installation, repair, or replacement to conduits, hand holes, concrete bases, poles, and luminaires. Street lighting improvements are assessed as a total project cost.

#### F. Retaining Walls

The City may reconstruct retaining walls on private property if petitioned for by the property owner. The costs to replace private retaining walls will be assessed 100% to the property owner. Replacement of retaining walls on public property will not be assessed, but reconstructed and relocated on private property so as to remove the retaining wall encroachment within the right of way.

#### G. Other Assessable Items

The City of Excelsior incurs costs in the abatement of public nuisances such as weeds, trash pickup, snow/ice removal, removal of obstacles in sight triangles at intersections and removal of diseased trees. Works necessary to provide a new sump pump system, or to

bring an existing system into Code compliance may be eligible for special assessments. Delinquent utility bills are also assessable under Minnesota State Statutes. Assessments for these items will include the actual cost of abatement, plus reasonable administrative costs.

## **SECTION 7. ASSESSMENTS**

- A. **Assessable Project Costs.** The "project cost" of an improvement includes the costs of all necessary construction work required to accomplish the improvement, plus engineering, legal, administrative, financing and other contingent costs, including acquisition of right-of-way and other property. The finance charges include all costs of financing the project. These costs include but are not limited to financial consultant's fees, bond rating agency fee, bond attorney's fees, and capitalized interest. When the project is started and funds are expended prior to receiving the proceeds from a bond sale, the project will be charged interest on the funds expended from the date of expenditure to the date the bond proceeds are received.
- B. **Duration of Assessments.** Special assessments shall be collected in equal installments of principal for a period of years as determined by the City Council. The term of any assessment will not exceed the term of a bond
- C. **Interest Rate.** The City of Excelsior will charge interest on special assessments at a rate specified in the resolution approving the assessment roll. If bonds were sold to finance the improvement project, the interest rate shall be **1.5%** more than the average interest rate of the bonds, rounded up to the nearest quarter of a percent. If no bonds were sold, the interest rate shall be set at 1.5% more than the current 10-year Treasury Bonds, rounded up to the nearest quarter of a percent.
- D. **Payment Options.** The property owner has three available options when considering payment of assessments:
1. **With Property Taxes** – If no action is undertaken by the property owner, then special assessment installments with interest will appear annually on the individual's property tax statement for the duration of the assessment term.
  2. **Prepayment** – No interest will be charged if the entire assessment is paid off within 30 days from the date of the adoption of the assessment roll.
  3. **Early Pay Off of Assessment** – The property owner may at any time prior to November 15<sup>th</sup> of any year make payment to Hennepin County to pay off the balance of the assessment with interest accrued to December 31<sup>st</sup> of that year. The property owner may also choose to pay Hennepin County for the remaining

assessment balance at any time, with the exception of the current year's installment of principal and interest.

- E. Appeal. No appeal may be taken as to the amount of any assessment adopted unless a written objection signed by the affected property owner is filed with the City Clerk's office prior to the assessment hearing or presented to the presiding officer at the hearing. If a property owner has filed a written objection, he or she may appeal the assessment to the Hennepin County District Court by (1) serving a notice of the appeal upon the Mayor and City Clerk within 30 days after the adoption of the assessment; (2) filing such notice with the District Court within 30 days after the adoption of the assessment; and (3) filing such notice with the District Court within 10 days after serving the notice of appeal upon the Mayor or City Clerk.

**SECTION 8. DEFERMENT OF SPECIAL ASSESSMENTS**

- A. The City Council shall, at its discretion, defer the payment of an assessment for any homestead property owned by a person for who it would be a hardship to make the payment if the owner is one of the following and meets the conditions outlined in Section 6(B):
1. A person who is 65 years of age or older.
  2. A person who is retired by virtue of a permanent and total disability.
  3. A member of the National Guard or other military reserves called into active service.

It should be noted that a deferred assessment accrues interest.

- B. The City Clerk is authorized to record the deferment of special assessments when all of the following conditions are met:
1. The applicant must apply for the deferment no later than 90 days after the assessment is adopted by the City Council.
  2. The applicant must be the owner of the property.
  3. The applicant must occupy the property as their principal place of residence.
  4. The average annual payment for assessments levied against the subject property exceed one percent of the adjusted gross income of the applicant as evidenced by the applicant's most recent federal income tax return. The average annual

payment of an assessment shall be the total cost of the assessment divided by the number of years over which it is spread.

- C. The deferment shall be granted for as long as the hardship exists and the conditions aforementioned have been met. It shall be the duty of the applicant to notify the City Clerk of any change in status that would affect eligibility for deferment. The applicant shall also be required to reapply for the deferment on an annual basis if granted a deferment for active military service or financial hardship.
- D. The entire amount of deferred special assessments shall be due within 60 days after loss of eligibility by the applicant. If the special assessment is not paid within the sixty 60 days, the City Clerk shall certify to the County Auditor for collection with taxes the following year. Should the applicant demonstrate to the satisfaction of the Council, that full repayment of the deferred special assessment would cause the applicant particular undue financial hardship, the Council may order that the applicant pay within sixty days a sum equal to the number of installments of deferred special assessments outstanding and unpaid to date, including principal and interest, with the balance of the undeferred amount thereafter paid according to the terms and conditions of the original special assessments.
- E. The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following as provided in MN State Statutes:
  - 1. Upon death of the owner.
  - 2. The sale, transfer or subdivision of all or any part of the property.
  - 3. Loss of homestead status on the property.
  - 4. Determination by the Council for any reason that immediate or partial payment would impose no hardship.
- F. Exceptional and Unusual Circumstances: Nothing herein shall be construed to prohibit the City Council from considering an application of hardship on the basis of exceptional and unusual circumstances which are not covered by the standards and guidelines as set forth in this ordinance. This consideration and determination must be made in a non-discriminatory manner so as not to give the applicant an unreasonable preference or advantage over other applicants.